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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/931,042	08/16/2001	Jeffrey H. Slatkin	2001 - Slatkin, Jeffrey	2676

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EXAMINER

WAKS, JOSEPH

ART UNIT PAPER NUMBER

2834

DATE MAILED: 04/30/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/931,042	<b>Applicant(s)</b> SLATKIN, JEFFREY H.	
	<b>Examiner</b> Joseph Waks	<b>Art Unit</b> 2834	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 January 2003.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 2-5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \*    c) ☐ None of:  
    1. ☐ Certified copies of the priority documents have been received.  
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
    3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
    \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |                                                                                              |                                                                             |
|----------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                             | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Specification*

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

In line 3, "comprising" is a legal phraseology. Examiner suggests --including--.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 2-5** are rejected under 35 U.S.C. 103(a) as being unpatentable over **McGee (US 4,614,875)** in view of **Schenavar (US 4,032,829)**.

**McGee** discloses in Figures 1, 2, and 4 invention as claimed: a device embedded within a roadway 290 having: a deformable upper plate 239, a series of individual rigid tread plates 231a and 235a linked together by lining plates 207 and linking pins 231b and 235b, a rigid lower plate (the bottom of casing 201), a plurality of electromechanical generating pumps 101-119 each having an upper piston cap 240, a

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driver arm 252 descending from the lower surface of the upper piston cap, a base piston shell 201 a spring 258 compressibly connecting the upper piston cap and base piston shell, a generator 210 affixed to the upper surface of the base member having a drive gear 278 engaging the driver arm. However, **McGee** does not disclose the upper piston cap having a cavity and top end piece and a base piston shell having an interior cavity.

**Schenavar** discloses an energy converter system utilizing the upper piston cap 48 having a cavity and top end piece 52 with a driver 56 extending from the lower surface of the end piece and a base piston shell 44 having an interior cavity and a base compressibly connected to the upper piston cap by the spring 66 for the purpose of directly transferring the linear movement of the driver to the rotary movement of the pinion 74 driving a generator 90.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to design the device as taught by **McGee** and to provide the upper piston cap having a cavity and top end piece and a base piston shell having an interior cavity as taught by **Schenavar** for the purpose of simplifying the transmission of linear movement of the flexible plate by directly transferring the linear movement to the rotary movement driving the generator.

It would have been further obvious to one having ordinary skill in the art at the time the invention was made to design the device as taught by **McGee** and to provide the three phase Y wired generator for the purpose of connecting the generator to a three phase distribution system since the examiner takes Official Notice the three phase Y connected generators are well known in the art for their use in the three phase electrical

distribution systems and the selection of such generator to supply such system would be well within the level of ordinary skill in the art.

Re claim 5, the combined device discloses the structure as claimed. Claim 5 that merely recites connecting and using the disclosed features together is inherent to the disclosed structure.

### ***Response to Arguments***

4. Applicant's arguments filed on January 13, 2003 have been fully considered but they are not persuasive.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the driver arm attached to the underside of the top end piece that is not the deformable upper plate or the tread plate, the top end piece being part of the upper piston cap, the singular simple descending driver arm in contact with the drive gear on a generator rotating the drive gear one way when depressed and the other way when extension occurs, and the single descending driver arm engaging the single drive gear of the generator arm) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

In this instance McGee teaches the in road imbedded generator, Schenavar discloses an energy converter system utilizing the upper piston cap having a cavity and top end piece and a base piston shell having an interior cavity for the purpose of directly transferring the linear movement of the driver to the rotary movement of the pinion driving a generator. In combination McGee and Schenavar teach the invention as claimed.

### ***Conclusion***

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

### ***Communication***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph Waks whose telephone number is (703) 308-1676. The examiner can normally be reached on Monday through Thursday 8 am to 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nestor R Ramirez can be reached on (703) 308-1371. The fax phone

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numbers for the organization where this application or proceeding is assigned are (703) 305-1341 for regular communications and (703) 305-1341 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1782.

  
JOSEPH WAKS  
PRIMARY PATENT EXAMINER  
TC-2800

JW  
April 28, 2003